

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL WINSTON,

Petitioner,

v.

COMMONWEALTH, et al.,

Respondents.

Civil Action No. 10-215 Erie

MEMORANDUM ORDER

This habeas corpus action was received by the Clerk of Court on September 1, 2010 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [ECF No. 13], filed on January 21, 2011, recommended that Petitioner's case be dismissed for failure to prosecute due to his failure to provide direction to the U.S. Marshal Service and his failure to cooperate with the U.S. Marshal Service in order to effectuate service. Petitioner was allowed fourteen (14) days from the date of service to file objections, and a document entitled "Response," which the Court has construed as objections, was filed by the Petitioner on January 31, 2011 [ECF No. 14].

After de novo review of the documents in the case, together with the Report and Recommendation and Objections thereto, the following order is entered:

AND NOW, this 8th day of February, 2011;

IT IS HEREBY ORDERED that the Petitioner's case is DISMISSED for failure to prosecute.

The Report and Recommendation [ECF No. 13] of Magistrate Judge Baxter, filed on January 21, 2011, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge